Supreme Court, U.S.
FILED

'97 1329 DEC 29 1997

OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE united STATES

October Term 1997

Leonard Lloyd, Morris
Petitioner,

V.

united States Court of Appeals for the Ninth Circuit
Respondent.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
Real Party in Interest

PETITION FOR WRIT OF MANDAMUS

Leonard Lloyd, Morris
c/o 2429 Condit Ct.
Ceres, California state
Non-Domestic [95307]
(209) 522-1703 - 524-0178 Fax

120 pp

QUESTIONS PRESENTED FOR REVIEW

1. The fundamental question presented for review by this case is whether or not the united States Court of Appeals for the Ninth Circuit has issued a Decision in direct conflict with the original intent of the filing by Petitioner by virtue of the fact that the requested action was that of a Judicial Original Action for Judicial Review DeNovo of Administrative Action in Federal District Court and the Decision rendered was a denial for Writ of Mandamus.

2. This case presents the corresponding question for review as to whether or not the united States Court of Appeals for the Ninth Circuit has the authority to change a petitioners request from the action sought to an action specifically outlined as not requested by Petitioner.

3. This case also presents for review the question of whether the united States Court of Appeals exceeded its authority by changing an action requested in the normal course of law, as

mandated by Congress, to that of one asking for an extraordinary course of law which can be denied because all administrative remedies had not been exhausted by Petitioner and thereby converting Petitioner's intent from seeking proper administrative remedies to one of seeking improper remedies so that Petitioner's request could be summarily denied.

4. Is not an instrument filed and accepted by the clerk of court, with acceptance of filing fee by clerk of court, a contract between that court and the moving party and as such does the clerk of court have the authority to change the terms and conditions of said contract without the moving parties authorization?

LIST OF ALL PARTIES

The undersigned certifies that the following listed parties have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualification or recusal.

united States Court of Appeals for the Ninth Circuit - Respondent

Circuit Judges: SNEED, LEAVY and TROTT - Respondents

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
Magistrate: BECK - Real Party in Interest

Leonard Lloyd, Morris - Petitioner

Leonard Lloyd, Morris
Petitioner

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I STATEMENT OF THE CASE

1. The cause arises out of the denial of the Respondent to perform its "ministerial" as well as its Congressionally mandated obligation to hear the Judicial Original Action for Judicial Review DeNovo of Administrative Action in the Federal District Court Eastern District of California as mandated under Title 5 U.S.C. sections 701-706.

II JURISDICTION

2. Jurisdiction is invoked under 28 U.S.C. 1651.

III PETITIONER

3. Petitioner is the Citizen in Party to the Judicial Original Action for Judicial Review DeNovo of Administrative Action in the Federal District Court Eastern District of California.

IV RESPONDENT

4. Respondent is the united States Court of Appeals for the Ninth Circuit, Circuit Judges SNEED, LEAVY and TROTT.

V STATEMENT OF FACTS

5. Petitioner filed a Judicial Original Action for Judicial Review DeNovo of Administrative Action in Federal District Court, with the

united States Court of Appeals for the Ninth Circuit San Francisco, California state on November 5, 1997. See Judicial Original Action for Judicial Review DeNovo of Administrative Action in the Federal District Court exhibit "A", attached hereto and incorporated herein by reference.

6. Petitioner received on November 17, 1997, correspondence form the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, dated November 12, 1997, assigning a Case No. 97-80611, and stating:

> "A petition for writ of mandamus and/or prohibition has been received in the Clerk's Office of the United States Court of Appeals for the Ninth Circuit.
>
> The U.S. Court of Appeals docket number shown above has been assigned to this case. You must indicate this Court of Appeals docket number when corresponding to this office relative to your case.
>
> Pursuant to Rule 21(b), FRAP, no answer to a petition for writ of mandamus and/or prohibition may be filed unless ordered by the Court. If such an order is issued, the answer shall be filed by the respondents within the time fixed by the Court.
>
> A copy of the docket sheet case title page is attached. Please take special note of the case caption, as it may differ from that shown on the papers submitted for filing. Pursuant to Circuit Rule 21-2, an application for writ of mandamus an/or prohibition shall not bear the name of the district court judge concerned. Rather, the appropriate district court shall be named as respondent."

See exhibit "B" correspondence, attached hereto and incorporated herein by reference.

7. Petitioner, on November 18, 1997, refused for fraud the above mentioned correspondence stating the Judicial Original Action for Judicial Review DeNovo of Administrative Action in the Federal District Court had been converted by the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT to a petition for writ of mandamus and/or prohibition. See exhibit "B" Refusal for Fraud, attached hereto and incorporated herein by reference.

8. Petitioner, on December 12, 1997, received from the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT an ORDER from CATHY A. CATTERSON, CLERK U.S. COURT OF APPEALS stating:

> "Petitioner's "Judicial Original Action for Judicial Review" is denied. All other pending motions are denied as moot.
>
> No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entered in this closed docket."

See exhibit "C" ORDER, attached hereto and incorporated herein by reference.

9. Petitioner, on December 18, 1997, refused for fraud the above mentioned ORDER form the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

See exhibit "C" Refusal for Fraud, attached hereto and incorporated herein by reference.

10. Petitioner, to date, has not received from the united States Court of Appeals For the Ninth Circuit San Francisco, California state nor form the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT any answer to the refusals for fraud, exhibits "B" and "C".

11. The united States Court of Appeals For the Ninth Circuit San Francisco, California state has intentionally attempted to sidestep their Congressionally mandated duty under Title 5 U.S.C. Sections 701-706 by applying Petitioners request for Judicial Original Action for Judicial Review DeNovo of Administrative Action in the Federal

District Court Eastern District of California into a "Petition for writ of mandamus and/or prohibition". Although Petitioner timely refused for fraud the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT attempted conversion from that of an Original Action for Judicial Review of Administrative Action in the Federal District Court to that of a Petition for writ of mandamus and/or prohibition, the Court proceeded to treat Petitioners request as a Petition for writ of mandamus as evidenced by the Case Number assigned to the Petition for writ of mandamus still appears on the ORDER denying Judicial Original Action for Judicial Review. Also noted on the ORDER in the second paragraph it states: "No motions for reconsideration, rehearing, clarification, stay of the **"mandate"**, or any other submissions shall be filed or entered in this closed docket," clearly stating Petitioners request was treated as petition for writ of mandamus. (Emphasis added) See exhibit "C" ORDER, attached hereto and incorporated herein by reference.

12. The UNITED STATES COURT OF APPEALS FOR THE

NINTH CIRCUIT'S ORDER, denying Petitioner's "Judicial Original Action for Judicial Review", attempts to lead one to believe that Citizen in Party's request was heard before: SNEED, LEAVY and TROTT, Circuit Judges; however the ORDER is unsigned by any of the Circuit Judges mentioned nor is it even signed at all, leading Petitioner to believe that the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT is attempting to perpetrate a Fraud on the Citizen in Party by its ORDER See exhibit "C" ORDER, attached hereto and incorporated herein by reference..

VI STATEMENT OF REASONS WHY THE WRIT SHOULD ISSUE

13. Respondent's duty to hear Petitioner's "Judicial Original Action for Judicial Review DeNovo of Administrative Action in the Federal District Court is not only mandated by Congress through Title 5 U.S.C. sections 701-706, but is also a puerilely "ministerial duty" in the administration of Justice under the facts of this case.

14. Petitioner has complied with every requirement of the Federal

Rules with regard to all procedures required of him under the facts of this case.

15. As stated in Title 5 U.S.C. sections 701-706 state: "judicial review of administrative action is rule, and nonreviewability is exception which must be demonstrated." ***Suwannee S.S. Co. v United States (1977) 79 Cust Ct 19, 435 F Supp 389,*** thus the Respondent is clearly outside of its authority to deny Citizen in Party's request for Judicial Original Action for Judicial Review.

16. The UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, in concerted action with the FEDERAL DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA have conspired to deny due process of law and the equal protection under the law to the Petitioner and in so doing have denied Petitioner his right to life, liberty and property.

17. Petitioner has no other administrative or civil remedy available to obtain justice in this case.

18. Although mandamus is an extraordinary legal remedy, it is in the

nature of an equitable interference supplementing deficiencies of the common law, and will ordinarily be issued where a legal duty is established (as established herein) and no other means exist for enforcing it (which is also true herein).

19. The duty whose performance is sought to be compelled is current, no demand and refusal is required, and the Respondent has the ability to comply with the sought writ.

20. Substantial justice is sought to be enforced by the writ and substantial injury prevented.

VII RELIEF REQUESTED

21. Petitioner requests that Respondent be compelled to execute Petitioner's request for Judicial Original Action for Judicial Review DeNovo of administrative Action in Federal District Court, or in the alternative appear and show cause why Respondent should not be compelled to do so.

Respectfully submitted,

Dated December 29, 1997

Leonard Lloyd, Morris

CERTIFICATE OF SERVICE

I, Leonard Lloyd, Morris, being competent to serve papers, on December 29, 1997, caused to be served the PETITION FOR WRIT OF MANDAMUS, by placing in a postage paid envelope and placing said envelope in the U. S. Mail, Registered, addressed to the following:

Circuit Judge: SNEED
U.S. Court of Appeals
For the Ninth Circuit
95 Seventh Street
San Francisco, California state
Non-Domestic [94119]
Registered Mail # R 213 867 838

Circuit Judge: LEAVY
U.S. Court of appeals
For the Ninth Circuit
95 Seventh Street
San Francisco, California state
Non-Domestic [94119]
Registered Mail # R 213 867 839

Circuit Judge: TROTT
U.S. Court of Appeals
For the Ninth Circuit
95 Seventh Street
San Francisco, California state
Non-Domestic [94119]
Registered Mail # R 213 867 840

CATHY A. CATTERSON, Clerk
U.S. Court of Appeals
For the Ninth Circuit
95 Seventh Street
San Francisco, California state
Non-Domestic [94119]
Registered Mail # R 213 867 841

Magistrate: BECK
U.S. Courthouse
1130 O street
Fresno, California state
Non-Domestic [93721]
Registered Mail # R 213 867 842

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